

ORIGINAL

FILED
DISTRICT COURT OF GUAM

NOV 16 2005

MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUSTIN KEITH GUERRERO, and
RENEA DORLEEN CRUZ-TAITANO,

Defendants.

Magistrate Case No. 05-00045

ORDER

Regarding Notice Pursuant to 18
U.S.C. § 3401(a),(b) and General
Order 04-00016.

This case was previously assigned to the Honorable Magistrate Judge Joaquin V.E. Manibusan. However, the Court notes that the defendants were not advised of their rights pursuant to 18 U.S.C. § 3401(a)¹, (b)² and General Order 04-00016.³ Additionally, the defendants did not elect

¹ 18 U.S.C. § 3401(a) states:

When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate judge shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within that judicial district.

² 18 U.S.C. § 3401(b) states in pertinent part:

Any person charged with a misdemeanor, other than a petty offense may elect, however, to be tried before a district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment and sentencing by a district judge and that he may have a right to trial by jury before a district judge or magistrate judge.

³ General Order 04-00016 states in pertinent part:

If a defendant is charged with a Class A misdemeanor, the Magistrate Judge shall inform him of his right to trial, judgment and sentencing by a District Judge and that he may have a right to trial by jury before a District Judge or Magistrate Judge. The Magistrate Judge shall not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the Magistrate Judge and expressly and specifically waives trial, judgment, and sentencing by a District Judge.

1 whether they wanted their case to proceed before a magistrate or district court judge. Accordingly,
2 both defendants are hereby advised that pursuant to 18 U.S.C. § 3401(a),(b) and General Order 04-
3 00016, they have a right to trial, judgment, and sentencing by a district judge. Also they both may
4 have a right to trial by jury before a district judge or magistrate judge.

5 Both defendant Guererro and defendant Cruz-Taitano are hereby ordered to respond in
6 writing no later than Friday, November 18, 2005, whether or not they wish to proceed before a
7 district court judge or are willing to consent to proceed before the magistrate judge. If the defendants
8 consent to proceed before the magistrate such consent must expressly and specifically indicate a
9 waiver of trial, judgment and sentencing by a district judge and be executed in a writing signed by
10 both the defendant and respective counsel.

11 If either defendant or both elect to be tried before a district judge, the Clerk of Court is
12 directed to designate the matter as a criminal case and assign it to a district judge.

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14 **SO ORDERED** this 16 day of November, 2005.



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17 **ROBERT CLIVE JONES***
18 **United States District Judge**

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* The Honorable Robert Clive Jones, United States District Judge for Nevada, by designation.